

House Engrossed Senate Bill

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 155

SENATE BILL 1237

AN ACT

AMENDING SECTION 32-2081, ARIZONA REVISED STATUTES; RELATING TO
PSYCHOLOGISTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2081, Arizona Revised Statutes, is amended to
3 read:

4 32-2081. Grounds for disciplinary action; duty to report;
5 immunity; proceedings; board action; notice
6 requirements; civil penalty

7 A. The board, on its own motion, may investigate evidence that appears
8 to show that a psychologist is psychologically incompetent, guilty of
9 unprofessional conduct or mentally or physically unable to safely engage in
10 the practice of psychology. A health care institution shall, and any other
11 person may, report to the board information that appears to show that a
12 psychologist is psychologically incompetent, guilty of unprofessional conduct
13 or mentally or physically unable to safely engage in the practice of
14 psychology. The board shall notify the psychologist about whom information
15 has been received as to the content of the information within one hundred
16 twenty days of receiving the information. A person who reports or provides
17 information to the board in good faith is not subject to an action for civil
18 damages. The board, if requested, shall not disclose the name of the person
19 providing information unless this information is essential to proceedings
20 conducted pursuant to this section. The board shall report a health care
21 institution that fails to report as required by this section to the
22 institution's licensing agency.

23 B. A health care institution shall inform the board when the
24 privileges of a psychologist to practice in that institution are denied,
25 revoked, suspended or limited because of actions by the psychologist that
26 appear to show that that person is psychologically incompetent, guilty of
27 unprofessional conduct or mentally or physically unable to safely engage in
28 the practice of psychology, along with a general statement of the reasons
29 that led the health care institution to take this action. A health care
30 institution shall inform the board if a psychologist under investigation
31 resigns the psychologist's privileges or if a psychologist resigns in lieu
32 of disciplinary action by the health care institution. Notification shall
33 include a general statement of the reasons for the resignation.

34 C. The board may require the licensee to undergo any combination of
35 mental, physical or psychological competence examinations at the licensee's
36 expense and shall conduct investigations necessary to determine the
37 competence and conduct of the licensee.

38 D. THE CHAIRMAN OF THE BOARD SHALL APPOINT A COMPLAINT SCREENING
39 COMMITTEE OF NOT LESS THAN THREE MEMBERS OF THE BOARD INCLUDING A PUBLIC
40 MEMBER. THE COMPLAINT SCREENING COMMITTEE IS SUBJECT TO OPEN MEETING
41 REQUIREMENTS PURSUANT TO TITLE 38, CHAPTER 3, ARTICLE 3.1. THE COMPLAINT
42 SCREENING COMMITTEE SHALL REVIEW ALL COMPLAINTS AND BASED ON THE INFORMATION
43 PROVIDED PURSUANT TO SUBSECTION A OR B OF THIS SECTION, MAY TAKE EITHER OF
44 THE FOLLOWING ACTIONS:

1 1. DISMISS THE COMPLAINT IF THE COMMITTEE DETERMINES THAT THE
2 COMPLAINT IS WITHOUT MERIT. COMPLAINTS DISMISSED BY THE COMPLAINT SCREENING
3 COMMITTEE SHALL NOT BE DISCLOSED IN RESPONSE TO A TELEPHONE INQUIRY OR PLACED
4 ON THE BOARD'S WEB SITE.

5 2. REFER THE COMPLAINT TO THE FULL BOARD FOR FURTHER REVIEW AND
6 ACTION.

7 ~~D.~~ E. If the board finds, based on the information it receives under
8 subsection A or B of this section, that the public health, safety or welfare
9 requires emergency action, the board may order a summary suspension of a
10 license pending proceedings for revocation or other action. If the board
11 issues this order, it shall serve the licensee with a written notice of
12 complaint and formal hearing pursuant to title 41, chapter 6, article 10,
13 setting forth the charges made against the licensee and the licensee's right
14 to a formal hearing before the board or an administrative law judge within
15 sixty days.

16 ~~E.~~ F. If the board finds that the information provided pursuant to
17 subsection A or B of this section is not of sufficient seriousness to merit
18 direct action against the licensee, it may take either of the following
19 actions:

20 1. Dismiss if the board believes the information is without merit.

21 2. File a letter of concern.

22 ~~F.~~ G. If the board believes the information provided pursuant to
23 subsection A or B of this section is or may be true, it may request an
24 informal interview with the psychologist. If the licensee refuses to be
25 interviewed or if pursuant to an interview the board determines that cause
26 may exist to revoke or suspend the license, it shall issue a formal complaint
27 and hold a hearing pursuant to title 41, chapter 6, article 10. If as a
28 result of an informal interview or a hearing the board determines that the
29 facts do not warrant revocation or suspension of the license, it may take any
30 of the following actions:

31 1. Dismiss if the board believes the information is without merit.

32 2. File a letter of concern.

33 3. Issue a decree of censure.

34 4. Fix a period and terms of probation best adapted to protect the
35 public health and safety and to rehabilitate or educate the psychologist.
36 Probation may include temporary suspension for not to exceed twelve months,
37 restriction of the license or restitution of fees to a client resulting from
38 violations of this chapter. If a licensee fails to comply with a term of
39 probation the board may file a complaint and notice of hearing pursuant to
40 title 41, chapter 6, article 10 and take further disciplinary action.

41 5. Enter into an agreement with the licensee to restrict or limit the
42 licensee's practice or activities in order to rehabilitate the psychologist,
43 protect the public and ensure the psychologist's ability to safely engage in
44 the practice of psychology.

1 ~~G.~~ H. If the board finds that the information provided pursuant to
2 subsection A or B of this section warrants suspension or revocation of a
3 license, it shall hold a hearing pursuant to title 41, chapter 6, article 10.
4 Notice of a complaint and hearing is fully effective by mailing a true copy
5 to the licensee's last known address of record in the board's files. Notice
6 is complete at the time of its deposit in the mail.

7 ~~H.~~ I. The board may impose a civil penalty of at least three hundred
8 dollars but not more than three thousand dollars for each violation of this
9 chapter or a rule adopted under this chapter.

10 ~~I.~~ J. Except as provided in section 41-1092.08, subsection H, a
11 person may appeal a final decision made pursuant to this section to the
12 superior court pursuant to title 12, chapter 7, article 6.

13 ~~J.~~ K. If the board determines after a hearing that a licensee has
14 committed an act of unprofessional conduct, is mentally or physically unable
15 to safely engage in the practice of psychology or is psychologically
16 incompetent, it may do any of the following in any combination and for any
17 period of time it determines necessary:

- 18 1. Suspend or revoke the license.
- 19 2. Censure the licensee.
- 20 3. Place the licensee on probation.

21 ~~K.~~ L. A letter of concern is a public document and may be used in
22 future disciplinary actions against a psychologist. A decree of censure is
23 an official action against the psychologist's license and may include a
24 requirement that the licensee return fees to a client.

25 ~~L.~~ M. If during the course of an investigation the board determines
26 that a criminal violation may have occurred involving the delivery of
27 psychological services it shall inform the appropriate criminal justice
28 agency.

29 ~~M.~~ N. The board shall deposit, pursuant to sections 35-146 and
30 35-147, all monies it collects from civil penalties pursuant to this section
31 in the state general fund.

APPROVED BY THE GOVERNOR APRIL 23, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2004.

Passed the House April 12, 2004,

by the following vote: 53 Ayes,

0 Nays, 7 Not Voting

Jake Flake
Speaker of the House
Norman L. Fyone
Chief Clerk of the House

Passed the Senate March 9, 2004,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Ken Bennett
President of the Senate
Channing B. Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1237

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 19, 2004,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

Klu Blumett
President of the Senate
Chambers Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19th day of April, 2004,

at 3:02 o'clock P. M.

Wendy Ibarra
Secretary to the Governor

Approved this 23 day of

April, 2004,

at 2⁰⁰ o'clock P. M.

J. L. Napier
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of April, 2004,

at 3:05 o'clock P. M.

Janice K. Brewer
Secretary of State

S.B. 1237